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C O N F I D E N T I A L SECTION 01 OF 02 TUNIS 001282

SIPDIS

STATE FOR NEA/MAG, NEA/FO, NEA/PI
LONDON FOR GOLDRICH
PARIS FOR ZEYA

E.O. 12958: DECL: 06/12/2015
TAGS: PHUM PREL KPAO KMPI TS
SUBJECT: ABBOU APPEAL TRIAL: SENTENCE UPHELD, DIPLOMATIC
OBSERVERS EXPELLED

REF: A. TUNIS 1235
B. TUNIS 1004 AND PREVIOUS
C. TUNIS 1201

Classified By: CDA David Ballard for Reasons 1.5 (b) and (d)

11. (SBU) Summary: On June 10, the Court of Appeal in Tunis upheld the three and a half year sentence of lawyer/activist Mohamed Abbou (ref a). The trial was disorderly, and at times chaotic, with over 120 lawyers attempting to defend Abbou. Embassy human rights officer attended the trial along with diplomatic colleagues from the EU mission and European embassies. Diplomatic observers were allowed to observe part of the trial, but were then ordered to leave by the presiding judge who claimed that they were "not part of the legal system" and that their presence was disruptive to the trial. According to FSN staff, this is an unprecedented move. In the end, the trial was abbreviated and Abbou was only asked two questions. Throughout the day, the judge prevented some or all of the lawyers that had shown up to defend Abbou from entering the courtroom. Eventually, all defense lawyers decided to leave the courtroom to protest the "absence of minimal conditions for a free and fair trial." The trial has further galvanized the lawyer community, and international and domestic human rights groups are calling for a strong response from the USG and the EU. End Summary.

12. (U) On June 10, Embassy Human Rights Officer (HROff) attended the appellate trial of lawyer/writer Mohamed Abbou. Abbou was sentenced April 28 to a year-and-a-half prison term for "disrupting public order" after publishing an article comparing Tunisian jails to Abu Ghraib prison. He was also sentenced to two years for the assault of a female lawyer in 2002. (Abbou supporters claim this charge is exaggerated, and allege the falsification of medical records). He was arrested in March, shortly after writing an on-line article condemning the invitation of Ariel Sharon by the GOT to attend the World Summit on Information Society (WSIS) in November. The article unfavorably compared President Ben Ali to Sharon, and raised the taboo issue of corruption among the Trabelsi family of Ben Ali's wife Leila. (See refs a and b).

13. (U) Diplomatic colleagues from Spain, Finland, France, and the Netherlands (representing the EU), joined HROff as observers at the trial. International representatives from Amnesty International, Reporters Without Borders and Lawyers Without Borders, members of the French Bar and French media were also present. The diplomatic corps sat together throughout the observation period. Police presence in and around the court was significant and police carried side arms, which is not usual practice in Tunisia.

14. (SBU) After a considerable wait outside the courtroom while police prevented their entry, the diplomatic corps was allowed in and was able to observe part of the trial in the morning, although HROff was physically blocked at one point from entering the room by a man identified as the Prosecutor General. Police throughout the day blocked the entry of a large number of pro-Abbou lawyers. (One lawyer told HROff that of the 800 lawyers that have joined the "Free Abbou" cause, 120 were present at the Court of Appeal). The atmosphere in the court was disorderly, at times chaotic, and generally theatrical. At any given time, there were at least 40 lawyers crowding the front of the small court room, taking the opportunity of a large audience to make dramatic pronouncements on the unfair nature of the charges. When the judge left the court, lawyers stood on the court benches to rally the overwhelmingly pro-Abbou crowd, and make broad allegations against the government. ("This is the nature of the regime; they send the police to talk to lawyers instead of judges!"

15. (U) In the morning, discussion between the lawyers and the judge was heated and focused solely on access to the courtroom for all the lawyers defending Abbou. Approximately 40 of the reported 120 lawyers were present in the courtroom at first, while those outside yelled and banged on the door during the trial until the court was eventually opened to all. Discussion was also held on how the lawyers would present their case given the large number of defenders present.

16. (U) Abbou appeared in good health, and was met upon entry with shouts of support. After only 10 minutes of actual trial proceedings, during which the judge asked if Abbou had pushed his accuser, and if he had written the article in question, the judge stated that the lawyers, who were speaking frequently and apparently out of turn, were not respectful of the court, and ordered that the court room be completely emptied. Uniformed police informed the diplomatic observer group that they should leave as well, by order of the judge. Some of the lawyers, however, refused to leave the room and urged diplomatic representatives to remain.

17. (U) About 50 lawyers remained in the courtroom, in defiance of the judge's order, while the diplomatic corps joined the large crowd in the hall outside. Police, carrying sidearms, joined the security forces already present. However, HRoff did not observe any attempt to physically remove the lawyers from the courtroom. (One Abbou lawyer asked HRoff if he had been pushed by the police, and if he had seen them push the lawyers. The answer was no to both, although there were basic crowd control measures such as human barricades). Finally, the police informed the diplomatic observers that they could re-enter the courtroom. However, almost immediately after entering and taking the bench, the judge told the leading defense council that the diplomatic observers were not part of the legal system, and should not be present at the trial. She further said that the presence of these observers was disturbing to the trial. After hearing the order from the defense council, the diplomatic corps left the courtroom.

18. (U) According to Embassy lawyer contacts also present at the trial, all defense lawyers decided to leave the courtroom in protest shortly after the diplomatic corps was expelled. In a communique released by the International Committee for the Liberation of Mohamed Abbou the lawyers claimed, "the minimal conditions of freedom and fairness in the trial were not guaranteed".) Later on June 10, the judge announced that the Court of Appeal upheld the original sentence of three and a half years.

19. (C) COMMENT: The chaotic trial, complete with shouting lawyers and armed police, did nothing to improve the GOT's image regarding the Abbou case, which continues to galvanize the legal and NGO community. Although the judge was probably within her rights to request the removal of groups she considered disruptive from the court room, we believe this marks the first time diplomatic observers have been expelled from proceedings. Human rights groups, in Tunisia and internationally, have called for a strong response from the USG and the EU given the stark lack of respect for minimal judicial rights during the trial and the expulsion of the diplomatic observers. CDA plans to raise this issue, along with our concerns about the recent blocking of funding to the Arab Institute for Human Rights (AIHR) (ref c), with the MFA on June 11.

BALLARD